



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
525 NE Oregon Street  
PORTLAND, OREGON 97232-2737

May 8, 2001

The Honorable Gary Locke  
Legislative Bldg., Second Floor - Governor's Office  
PO Box 40002  
Olympia, WA 98504-0002

Dear Governor Locke:

I am writing to express the National Marine Fisheries Service's (NMFS) opposition to Engrossed House Bill (HB)1286, passed recently by the Washington State Legislature. This legislation suffers from a number of flaws, and I urge you to veto it.

HB 1286 deals with the disposition of hatchery salmon returning to Washington Department of Fish and Wildlife (WDFW) hatchery facilities. It takes responsibility away from professional managers, and instead dictates a one-size-fits-all solution for managing hatcheries across the state. This legislation cannot be defended scientifically and would only be an obstacle to the States' investment in salmon recovery. HB 1286 runs counter to developing salmon recovery measures based on local circumstances and the best available science. HB 1286 also creates serious potential conflicts with Federal regulatory requirements, and their associated public review processes, applicable to the production of hatchery fish in areas that support fish listed under the federal Endangered Species Act (ESA). The role of tribal co-managers in hatchery planning pursuant to Federal Court orders is not adequately acknowledged, nor are listed salmon recovery initiatives developed, with NMFS involvement, under the *U.S. v. Washington* management framework. The one-size-fits-all management approach proposed in HB 1286, is not scientifically defensible and limits the latitude of state managers to develop scientifically sound salmon recovery initiatives appropriate for the wide variety of circumstances that exist throughout the state. It may actually deter salmon recovery and contribute to the decline of salmon not already protected under the ESA, and because of its many ambiguities, HB 1286 will only serve to further polarize and confuse interested constituents on all sides of this issue.

Hatcheries in Washington, Oregon, and Idaho have made dramatic changes in their practices and continue to refine their operations based on huge investments in research and substantial public involvement. These changes have been coming with or without the ESA. Through HB 1286, the Legislature has inappropriately intruded into salmon recovery by mandating a single solution to a critical scientific matter, namely, the appropriate use of hatchery fish in salmon recovery. HB 1286 in many cases runs counter to improved hatchery practices already in place, and to further



reforms being developed by the co-managers and NMFS within existing public processes. For example, Section 4(3) of the Bill states that rules established by the state Fish and Wildlife Commission “*shall include directives for allowing more hatchery salmon to spawn naturally in areas where progeny of hatchery fish have spawned, including out-planting of adult fish, in order to . . . restore healthy numbers of fish within the state.*” Such an action is beneficial only under certain circumstances. To mandate such a “solution” generally will force a repetition of some of the most egregious hatchery practices of the past. The use of hatchery fish for recovery has to be considered on a case-by-case basis, a process now being effectuated by state, tribal, and Federal managers. Simply mandating the release of more hatchery fish into a watershed will not restore salmon runs limited by habitat degradation or other factors. Furthermore, as discussed in NMFS’ Viable Salmonid Populations (VSP) document cited in the July 10, 2000 ESA 4(d) rule covering nine distinct groups of salmon and steelhead in Washington state, instead of benefitting recovery, the natural spawning of large numbers of hatchery fish may have just the opposite effect by reducing the fitness of locally adapted populations. Implementation of HB1286 may therefore extend the time to ESA de-listing and recovery of listed salmon species. We don't believe that this is in the best interest of Washingtonians or of protected salmon.

Actions prescribed by HB 1286 will potentially place state hatcheries in conflict with Federal law under the ESA. In watersheds where federally protected species are present, proposed hatchery programs are subject to review and approval by NMFS or the U.S. Fish and Wildlife Service. Public review and comment on proposed hatchery actions are an important part of this ESA process. Eight Hatchery Genetic Management Plans produced by WDFW have just completed a public review and comment process and more than forty others are being prepared for public review. HB 1286 would shut-out the public and dictate one-size-fits-all management by mandating surplus salmon disposition protocols and priorities. This creates conflicts with existing Federal regulatory requirements.

We are also concerned that HB 1286 does not adequately acknowledge the standing of the tribes as co-managers of the fisheries resource in Washington. For example, under the Puget Sound Salmon Management Plan adopted under *U.S. v. Washington*, the state and the tribes must reach agreement on annual salmon hatchery production programs. By forcing a one-size-fits-all approach to the disposition of hatchery salmon, HB 1286 intrudes on the discretion of the state and the tribes during the annual production planning process. We also note that HB 1286 gives the Tribes fourth priority for receiving surplus eggs from state hatcheries that may be suitable for use in salmon recovery. It is our understanding, that the Northwest Indian Fish Commission has expressed strong reservations about this bill and has also urged you to veto it.

Finally, we feel strongly that HB 1286 sends the wrong message to the public: that the answer to the salmon recovery dilemma is the release of more hatchery fish into natural spawning areas. Besides being rooted in bad science, this message detracts from the need to determine why wild

salmon have declined to their current depressed levels in the first place. Only when restoration actions responsive to all the factors limiting salmon survival are addressed will these species so crucial to our Pacific Northwest culture and economy recover.

Thank you for considering our views on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna Darm", with a long horizontal flourish extending to the right.

Donna Darm  
Acting Regional Administrator

cc: Jeff Koenings, Director – WDFW  
Anne Badgley, Regional Director – USFWS  
Mr. Billy Frank, Jr. – NW Indian Fish Commission